
CENTER FOR DIGITAL DEMOCRACY

20 October 2016

**Re: Protecting the Privacy of Broadband and other Telecommunication
Services, WC Docket number 16 - 106**

Ms. Marlene H Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington, DC 20554

Dear Ms. Dortch:

The Center for Digital Democracy, a leading independent organization whose expertise includes a focus on the digital data-driven commercial marketplace, respectfully submits this additional comment. In particular, we are responding to a recent *ex parte* presentation by the Future of Privacy Forum to Commissioner Rosenworcel's office on 13 October 2016.

We are concerned that the commission did not receive information that accurately reflects contemporary digital data collection and marketing practices, especially the unique capabilities of Internet service providers (ISPs) that profoundly affect consumers today. Consumers of ISP broadband services face an ever-growing privacy threat. ISPs increasingly gather, analyze, and use a wide range of information from their subscribers and customers. Unlike other companies involved in data collection and online advertising, ISPs are tracking and using information from consumers (and their family members) when they use their PCs, mobile devices, and set-top boxes. Indeed, ISPs have openly proclaimed that they are more effective at gathering data and delivering profile-based targeting based on their control over these essential consumer devices. ISPs are working with leading information brokers and data providers, such as Acxiom and Oracle, to create in-depth dossiers on their customers' habits, behaviors, financial and racial backgrounds, as well as their geolocation. Such "cross-device" tracking and "audience-buying" capabilities enable ongoing commercial surveillance and also expose consumers to other threats involving their financial and health status, as well as that of their children.¹ These practices have tremendous consequences for

¹ See, for example, eMarketer, "An Interview with Maria Mandel Dunsche: Vice President Marketing & Media Innovation at AT&T AdWorks," <https://www.emarketer.com/corporate/clients/att.aspx>; Kelly Liyakasa, "AT&T Sees a Future at the Intersection of Cross-Screen and Addressable TV," Ad Exchanger, 13 Oct. 2016,

consumer privacy, reflecting the sea change that has occurred over the last several years giving ISPs powerful tools for intrusive data practices (such as Comcast's self-described "high-velocity analytics for advertising").² Leading ISPs are engaged in so-called "programmatic" targeting, where individuals are bought and sold in milliseconds via their data profiles (all without their knowledge or prior consent).³

Current claims that "de-identification" will protect consumers are unfounded. Indeed, by combining the data that they have on their customers, obtained from both subscribers and through "big data" analytics, with the robust information available from third-party data providers, ISPs develop an in-depth understanding of the identity of their customers. In today's digital marketplace, companies no longer need to know the name of individuals to understand who they really are. They know—through data-collection and data-analytics practices (such as "look-alike modeling")—where their customers spend their time and what they do, online and off. Unique identifiers enable granular and personalized tracking and targeting. Robust safeguards are required for de-identification to ensure that consumer privacy is even possible, given current data-analytics practices now employed by ISPs.⁴

<http://adexchanger.com/tv-and-video/att-sees-future-intersection-cross-screen-addressable-tv/>; Diana Goovaerts, "Verizon's AOL to Continue Mobile-First Push with Catered Ads, On-Device Offerings," *Wireless Week*, <https://www.wirelessweek.com/news/2016/01/verizons-aol-continue-mobile-first-push-catered-ads-device-offerings>.

² Comcast, "Comcast Ventures Hosts Big Data at Comcast and NBCUniversal Event in Palo Alto," Comcast Ventures, <http://corporate.comcast.com/comcast-voices/comcast-ventures-hosts-big-data-at-comcast-and-nbcuniversal-event-in-palo-alto>; Susan O'Brien, "How Comcast Turns Big Data into Smart Data (Part 1)," *Datameer*, 8 July 2016, <https://datameer-wp-production-origin.datameer.com/company/datameer-blog/comcast-turns-big-data-smart-data-part-1/>.

³ Daniel Frankel, "AT&T's Mike Welch on Programmatic, Addressable and the Coming Multi-billion-dollar Advanced Ad Biz," *Fierce Cable*, <http://www.fiercecable.com/special-report/at-t-s-mike-welch-programmatic-addressable-and-coming-multi-billion-dollar-advanced>; Joe Ayyoub, "Verizon and AOL: A Powerhouse in Mobile and Programmatic Advertising?" *Enlighten*, 15 May 2015, <https://www.ensighten.com/blog/verizon-aol-powerhouse-mobile-programmatic-advertising/>.

⁴ See, for example, Oracle, "Get a Unified View of Your Customer," <https://www.oracle.com/applications/customer-experience/data-cloud/solutions/id-graph.html>; Allison Schiff, "2016 Edition: A Marketer's Guide to Cross-Device Identity," *Ad Exchanger*, 29 Feb. 2016, <http://adexchanger.com/data-exchanges/2016-edition-marketers-guide-cross-device-identity/>; Allison Schiff, "Digging into the Cross-Device Implications of the Verizon-AOL Deal," *Ad Exchanger*, 13 May 2015, <http://adexchanger.com/data-exchanges/cross-device-implications-of-the-verizon-aol-deal/>.

The self-regulatory regime for digital advertising is widely considered by leading scholars and independent privacy experts to be severely flawed. It reflects an outdated model that embraces a 20th-century approach to commercial data practices, not today's Big-Data and always-connected digital environment.⁵

Further, the FTC framework needs significant changes, as evidenced by that agency's repeated calls for Congress to enact legislation to help it better address contemporary practices that undermine consumer privacy.⁶ The FCC should similarly adopt consumer privacy rules that empower consumers to make decisions about their own and their family's data that reflect how today's marketplace actually works.

Finally, we note that the Future of Privacy Forum is financially supported by leading ISPs, including AT&T, Comcast, and Verizon, as well as by the data companies these companies work with.⁷

We respectfully resubmit a report we wrote for this docket that addresses actual ISP data practices.

Sincerely,

Jeff Chester
Executive Director

⁵ See generally the work done by Carnegie Mellon scholars: Lorrie Faith Cranor, Candice Hoke, Pedro Giovanni Leon, and Alyssa Au, "Are They Worth Reading? An In-Depth Analysis of Online Advertising Companies' Privacy Policies," Social Science Research Network, 31 Mar. 2014, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2418590; Alessandro Acquisti, "Research: Overview," <http://www.heinz.cmu.edu/~acquisti/research.htm>.

⁶ Federal Trade Commission, "FTC Issues Final Commission Report on Protecting Consumer Privacy," 26 Mar. 2012, <https://www.ftc.gov/news-events/press-releases/2012/03/ftc-issues-final-commission-report-protecting-consumer-privacy>.

⁷ Future of Privacy Forum, Supporters," <https://fpf.org/about/supporters/>.